

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2006-000415

07/16/2008

HON. THOMAS DUNEVANT, III

CLERK OF THE COURT
S. Brown
Deputy

ARIZONA SPORTS COMPLEX LLC

KARA A RICUPERO

v.

MARICOPA COUNTY, et al.

ROBERTA S LIVESAY

UNDER ADVISEMENT RULING

(Maricopa County's Motion For Summary Judgment)

A.R.S. § 42-16210(B) provides two exceptions to the rule disallowing an appeal of taxes that were not timely paid: if the full year's tax is paid on or before December 31, or if the "remaining" half-year's tax is paid by July 1. Plaintiff paid the full amount of back taxes on April 6, 2007, after the December 31 deadline for paying the full year's tax but before the July 1 deadline for paying the "remaining" half tax.

The key word is "remaining." Plaintiff urges that, as long as the second half taxes are paid by the deadline, it is immaterial that the first half taxes were not. Defendant's position is that, in order to take advantage of the exception for the second half taxes, the first half taxes must be paid prior to delinquency. Defendant's interpretation is more natural. The use of "remaining" implies that there has been a previous payment that covered a portion of the taxes, the subtrahend that has been subtracted from the entire tax bill, leaving a remainder. The statute does not provide a separate deadline for the first half payment, suggesting that it is treated as distinct from the second half and must be paid prior to the date it becomes delinquent. Reference to the legislative history confirms this meaning. The March 26, 2002 House Summary for HB 2244, which became section B, notes that the successful strike-everything amendment "Allows tax court to proceed with the appeal hearing when taxes are delinquent if either: The full year tax is paid by December 31 or [t]he first half is paid on time and the second half is delinquent, but property taxes, and interest, are paid by July 1." (Later versions of the summary appear to revert

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to the language of the statute without further explanation). As Plaintiff concedes that the first half payment was delinquent and that the entire year's payment was not made by December 31, Plaintiff is not entitled to the exception.

Plaintiff's final argument is one that sounds in equity. The legislature has decreed that, with carefully defined exceptions, the courts shall not have jurisdiction when taxes are not paid in a timely manner. Whether this is equitable is a matter for the legislature, not for the Court.

Therefore, Defendant's Motion for Summary Judgment is granted.